

Comments from P. R. China on Notification

G/TBT/N/EU/1133

Draft Commission Implementing Regulation laying down rules, procedures and testing methodologies for the application of Regulation (EU) 2024/1257 as regards exhaust and evaporative emission type-approval of vehicles of categories M1 and N1

The People's Republic of China appreciates EU for fulfilling the transparency obligation under WTO, as well as for the opportunities for other WTO Members to make comments on the notification G/TBT/N/EU/1133. According to Article 2.9.4 of the WTO/TBT Agreement "without discrimination, allow reasonable time for other Members to make comments in writing, discuss these comments upon request, and take these written comments and the results of these discussions into account", China would like to put forward the following comments on the notified regulations and hope EU take these comments into consideration. The detail comments as follows:

1. The matching information of the model of "replacement pollution control device" is unknown, and it is suggested to explain and clarify it.

Article 13 of the Implementation Regulations stipulates replacement pollution control device as a separate technical unit, "if the requirements laid down in Annex XIII to this Regulation are met, the typeapproval authority shall grant an emission type-approval for replacement pollution control devices as separate technical unit and issue an emission type-approval number in accordance with the numbering system set out in Annex IV to Regulation (EU) 2020/683. The approval authority shall not assign the same number to another replacement pollution control device type. The same type-approval number may cover the use of that replacement pollution control device type on a number of different vehicle types."

This indicates that "replacement pollution control devices" can come in different types, and the same type of "replacement pollution control device" may also be applicable to multiple vehicle models to replace damaged original pollution control devices. To avoid confusion and facilitate user selection and use, it is recommended that "replacement pollution control devices" be clearly specified on the label (nameplate) or product manual, detailing which original pollution control devices they are intended to replace for which vehicle models.

2. The connotation and application boundary of "justified interest" and "reasonable and proportionate fee" need to be clarified.

The clause 10.9.2.2 in Annex III of the Implementation Rules, "VERIFYING REAL DRIVING EMISSIONS," states that "Upon request, without costs and within 10 days, the manufacturer shall make available the technical report referred to in paragraph 10.9.1. to any third party and the Commission. The manufacturer shall also make available the technical report referred to in paragraph 10.9.1. upon request and with a reasonable and proportionate fee to others, which does not discourage an inquirer with a justified interest from requesting the respective information or exceed the internal costs of the manufacturer for making the requested information available. Upon request, the type-approval authority shall make available the information listed under

paragraphs 10.9.1. and 10.9.2. without costs and within 10 days of receiving the request to any third party or the Commission. The type-approval authority shall also make available to others upon request the information listed under paragraphs 10.9.1. and 10.9.2. with a reasonable and proportionate fee, which does not discourage an inquirer with a justified interest from requesting the respective information or exceed the internal costs of the authority for making the requested information available." What does "inquirer with a justified interest" include? Are competitors and their employees considered "inquirer with a justified interest"? How is the "internal cost of the manufacturer for making the requested information available" determined, and are there specific guidelines for its determination? We hope for clarification and explanation.

3. The recommended document information retention period should be consistent.

There are four places in the implementation regulations where the retention period of documents is inconsistent:

(1) In the test form template of Appendix 8c, the test sheet(s) shall be retained by the technical service or the manufacturer for at least 10 years..

(2) In Annex I, "ADMINISTRATIVE PROVISIONS FOR EMISSION TYPE-APPROVAL", the approval authority shall keep record for a period of at least 5 years of all the documentation related to the conformity of production test results and shall make it available to the Commission upon request.

(3) In Annex IV, 4.3.5. the extended documentation package shall be identified and dated by the approval authority and kept by that authority for at least 10 years after the approval is granted.

(4) In Annex XIV "ANTI-TAMPERING, SECURITY AND CYBERSECURITY", (a) The typeapproval authority shall ensure that this documentation package remains available for at least 10 years counted from the time when production of the vehicle type (with regard to emissions) is definitively discontinued. (b) The manufacturer shall ensure that any material made open for inspection at the time of type approval remains available for at least a period of 10 years counted from the time when production of the vehicle type (with regard to emissions) is definitively discontinued."

The same test and experiment related documents are required to be kept for at least 5 years, while other documents are required to be kept for at least 10 years. What is the basis for this? Can a unified storage period be stipulated? Please explain clearly.

4. Please further elaborate on how the carbon dioxide emission baseline values for different fuels of vehicles are set in Article 3.5.8.3 of Appendix 3 of Annex I to the Regulations.

The clause requires setting a baseline for CO₂ emissions from vehicles of the same type when using different fuels, to compare the effectiveness of implementing eco-innovative technologies in reducing vehicle carbon emissions. The representativeness, scientific nature, and rationality of the baseline setting are crucial. Please provide a reasonable scientific calculation method and explain it. It is suggested to consider using the global average CO₂ emission levels for vehicles of the same model using the same fuel as the baseline.

5. It is recommended that the calculation of the 1.3 times emission limit in Article

3.11 of Annex II to the Regulations be further elaborated.

Whether the clause exceeds 1.3 times of the applicable emission limit is an important indicator to determine the conformity of the vehicle test results. Please explain what statistical method is used or set 1.3 times.

Comments in Chinese are in below:

中国对 G/TBT/N/EU/1133 通报的评议意见

中国赞赏欧盟履行 WTO 透明度义务，给予其他 WTO 成员评议 G/TBT/N/EU/1133 号通报的机会，根据 WTO/TBT 协定 2.9.4 条“无歧视地给予其他成员合理的时间以提出书面意见，并对这些书面意见和讨论的结果予以考虑”的规定，请欧盟对中方的评议意见予以考虑并作出答复，中方意见及论述如下：

1. “替换用污染控制装置”的车型匹配信息不明，建议予以解释明确。

实施条例第 13 条规定，作为独立技术单元的替换用污染控制装置“如果符合本法规附件十三规定的要求，型式认证机构应授予作为单独技术单元的替换用污染控制装置的排放型式认证，并根据（欧盟）2020/683 法规附件四规定的编号系统颁发排放型式认证号。审批机关不得将同一编号分配给其他类型的替代污染控制装置。同一类型的认证编号可以涵盖在多种不同车辆类型上使用该替代污染控制装置类型”。

这说明“替换用污染控制装置”会有不同类型，而同一类型的“替换用污染控制装置”也可能适用于多个车型，以替换已损坏的原装污染控制装置。为避免混淆，便于用户选择和使用，建议明确规定“替代用污染控制装置”必须在标签（铭牌）或产品说明书上明确列明，它适用于替换哪些车型的哪一款原装污染控制装置。

2. “正当利益”“合理费用”概念内涵和适用边界需澄清。

实施细则附件三《验证实际行驶排放》中第 10.9.2.2 条款表示“应要求，且不收取费用，制造商应在 10 天内向任何第三方和委员会提供第 10.9.1 段所述的技术报告。制造商还应在合理且相称的费用下，应要求向其他方提供第 10.9.1 段所述的技术报告，这不会阻止有正当利益的询问者请求相关信息，也不会超出制造商提供所请求信息的内部成本。应要求，型式批准机构应在收到请求后 10 天内免费向任何第三方或委员会提供第 10.9.1.和 10.9.2.段所列信息。型式批准机构还应根据请求向他人提供第 10.9.1.和 10.9.2.段所列信息，但需收取合理且相称的费用，不得阻止有正当利益的查询者请求相关信息，也不得超出机构内部为提供所请求信息而产生的费用。”其中，“有正当利益的查询者”包括哪些？厂家的竞争对手及其员工是否算“有正当利益的查询者”？“制造商提供所请求信息的内部成本”如何确定，是否有确定的构成指南？希望能提供澄清和解释。

3. 建议文件信息保存期限保持一致。

实施条例共有四处涉及文件保存期限不一致：

（1）附录 8c 测试表模板中，试验单（张）应由技术服务部门或制造商保存至少 10 年。

（2）附件一《排放型式认证的管理规定》中，批准机构应保存与生产测试结果符合性相关的所有文件记录，保存期限至少为 5 年，并应根据委员会的要求提供相关记录。

（3）附件四中，4.3.5. 扩展的文件包应由批准机构进行识别和标注日期，并由该机构保存至少 10 年。

（4）附件十四《防篡改、安全和网络安全》中，(a)型式批准机构应确保此文件包至少在车辆类型（关于排放）最终停产之日起 10 年内可用。(b)制造商必须确保在型式认证时开放检查的任何材料至少在车辆类型（关于排放）最终停产之日起 10 年内可用。

同样是测试、实验相关的文件单，一个要求至少保存 5 年，其他多个要求至少保存 10 年，规定不同保存年限的依据是什么？是否可以规定一个统一的文件保管年限？请予以解释明确。

4. 条例附件一的附录 3 中 3.5.8.3 条的不同燃料的车辆二氧化碳排放基准值如何设定，请予以进一步阐述。

该条款需要设置使用不同燃料情况下，同类型车辆二氧化碳排放的基准值，以便比较实施生态创新技术为车辆碳减排带来的成效。基准值设置的代表性、科学性、合理性显得非常重要。请欧盟给出合理的科学测算方法，并予以阐述。建议考虑同一车型使用同一燃料的车辆二氧化碳排放全球平均值作为基准值。

5. 建议进一步阐述条例附件二第 3.11 条中 1.3 倍的排放限制的计算方法。

该条款中是否超过适用排放限值的 1.3 倍是一个判定汽车测试结果符合性的重要指标，1.3 倍是基于什么样的统计方法得出或设置，请予以解释。